

FROM: Rolf Tolle
LOCATION: 86/G5
EXTENSION: 6743
DATE: 23 December 2003
REFERENCE: Y3226
SUBJECT: FINANCIAL GUARANTEE INSURANCE
ATTACHMENTS: Annexe 1: Definition of Financial Guarantee Insurance
ACTION POINTS: **Underwriters, Brokers and Compliance Officers to note changes to Lloyd's control of Financial Guarantee insurance**
DEADLINE: None

1. With effect from 1 January 2004, Lloyd's will address the risks associated with Financial Guarantee ("FG") insurance, which risks have the potential to cause large aggregations of exposure, through the new business planning arrangements. This has allowed Lloyd's to revoke the Financial Guarantee Regulation as part of its ongoing programme to consolidate and simplify Lloyd's rules.
2. However, the practical arrangements for the treatment of FG business remain substantively unchanged as does the definition of FG insurance, which is attached at Annex 1 and which will be inserted into the Definitions Byelaw.
3. Accordingly, no managing agent may enter into a contract of FG insurance on behalf of a syndicate under its management:
 - i) unless this contract falls within one of the following exempted classes as detailed within each of the following respective bulletins which remain in force and which are not superseded by this bulletin:
 - a) collision, salvage and general average guarantees (see bulletin 060/98 of 26 June 1998);
 - b) contract frustration (see bulletin Y2406 of 7 November 2000);

- c) mortgage indemnity (see bulletins 060/98 of 26 June 1998 and 35/99 of 29 April 1999);
- d) reinsurance of surety bond providers (see bulletins 060/98 of 26 June 1998 and Y2642 of 31 October 2001);
- e) trade credit (see bulletin 060/98 26 June 1998);

or unless:

- ii) the contract is specifically approved as part of the syndicate's business plan.

Requests to approve FG contracts so as to include such contracts in a syndicate's business plan should be made to Paula Singleton in the Franchise Performance Department. Requests may be made at any time during the business planning process which takes place in advance of each underwriting year or at any time throughout the underwriting year to which the business plan relates. Requests should be made under paragraph 14 or 15 of the Underwriting Byelaw as appropriate. Lloyd's will then add each approved FG contract to a list of FG contracts which will form an annex to the relevant business plan.

Contracts of FG insurance that will, prior to 1 January 2004, have been specifically approved in writing by Lloyd's, are deemed to be approved contracts of FG insurance.

- 4. This condition has been imposed on all managing agents under paragraph 63 of the Underwriting Byelaw.
- 5. This bulletin supersedes and replaces bulletins Y2370 of 15 September 2000, and Y3182 of 13 November 2003.

This bulletin has been sent to all managing agents, active underwriters, members' agents, recognised auditors, market associations and Lloyd's brokers.

Rolf Tolle
Franchise Performance Director

Please direct all queries relating either to this Market Bulletin, or to any other aspect of FG business at Lloyd's, to:

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Definition of Financial Guarantee Insurance

“financial guarantee insurance” means contracts of insurance (which includes any indemnity, guarantee, bond, contract of surety, slip or other similar instrument, and references to “insurance” include reinsurance) where -

- (a) the insurer agrees that on the occurrence of an event specified in the contract he will indemnify the assured against loss caused by the specified event or pay or otherwise benefit the assured to the extent provided by the contract;
- (b) the specified event is any of the following -
 - (i) the financial failure, default, insolvency, bankruptcy, liquidation or winding up for any person whether or not a party to the contract of insurance;
 - (ii) the financial failure of any venture;
 - (iii) the lack of or insufficient receipts, sales or profits of any venture;
 - (iv) the lack of or inadequate response or support by sponsors or financial supporters;
 - (v) a change in levels of interest rates;
 - (vi) a change of rates in exchange of currency;
 - (vii) a change in the value or price of land, buildings, securities or commodities;
 - (viii) a change in levels of financial or commodity indices;
 - (ix) any liability or obligation under an accommodation bill or similar instrument; and
- (c) the specified event is not directly caused by another specified event which is not of a description falling within (b) above,

save that the *Franchise Board* may on the application of any person conclusively determine whether or not a proposed contract of insurance is a contract of financial guarantee insurance.